In the Supreme Court
OF THE
United States

OCTOBER TERM, 1972

No. 72-1449

THE UNIVERSITY OF NEVADA AND THE STATE OF NEVADA,
Petitioners,

VS.

DIANE HALL, JOHN M. HALL, JOYCE HALL, minors by and through their Guardian ad Litem, and JOHN C. HALL, PATRICIA L. HALL and ELLA WATSON individually,
Respondents.

ANSWER TO PETITION FOR A WRIT OF CERTIORARI to the Supreme Court of the State of California

Petitioners invoke the jurisdiction of this Court under 28 U.S.C. §1257(3). The Petitioners have failed to set forth any facts or contentions which would bring them under 28 U.S.C. §1257(3).

The decision of the Supreme Court of the State of California:

(1) Did not draw into question the validity of a statute of the United States.

(2) Did not draw into question the validity of any state statute on the ground that it was repugnant to the Constitution or laws of the United States.

(3) Did not draw into question any title, right, privilege or immunity of Petitioners claimed under the Constitution of the United States.

It is self-evident that the privileges and immunities clause of the 14th Amendment does not apply to States or corporations.

The only contention of Petitioners that deserves any attention is set forth at pages 14-15 of the Petition wherein it is asserted that "the full faith and credit clause requires an appraisal of the governmental interests of each jurisdiction and the protection of those interests which are the greater." The Petitioners assert that the decision of the California Supreme Court renders inapplicable any Nevada statutory limitation on Nevada's waiver of sovereign immunity. They point to an alleged statutory limitation of liability in the amount of $25,000. The opinion of the Supreme Court of California does not reach the issue of the amount of damages to be awarded. The assertion of this issue as a ground for the jurisdiction of the Supreme Court of the United States is premature since no judgment has been entered against Petitioners. The only question determined was that of jurisdiction over Petitioners.

The Supreme Court of California has merely reversed the ruling of the Superior Court in and for the City and County of San Francisco made on a motion to quash the service of a summons on Petitioners. The Superior Court must still consider the validity of plaintiffs' claims and a jury or court must decide whether plaintiffs are entitled to any judgment and if so the amount of that judgment.

As pointed out in *Bruce v. Tobin,* 38 Sup.Ct. 7, 245 U.S. 19, a judgment of the State Supreme Court setting aside the action of the trial court rejecting plaintiff's claim but not specifically fixing the amount of plaintiff's recovery was not final for purpose of review by the Supreme Court of the United States.

The other contention of Petitioners that the "full faith and credit clause" (page 14) is involved relates to the Nevada statutory provisions regarding where suit may be brought. However, the statute to which they refer clearly indicates that a "tort action against the State of Nevada which is based on the alleged negligence of a State officer or employee in which the damages sought to be recovered are for physical injury or death may be brought in a court of competent jurisdiction in *the county where the actual injury occurred.*" (Emphasis added) See Petitioners' Appendix iii.

How can Petitioners seriously argue "full faith and credit" when its statute explicitly allows tort actions to be brought where the injury occurs rather than requiring that the action be brought in the State of Nevada?

CONCLUSION

It is respectfully submitted that the Petition for a Writ of Certiorari should be denied.

Dated, San Jose, California,
June 22, 1973.

Respectfully submitted,
EVERETT P. ROWE,
LAW OFFICES OF BOSTWICK & ROWE,
Attorneys for Respondents.